

RE: RESOLUTION GRANTING AUTOMATIC PERMANENT TOTAL DISABILITY BENEFITS TO HEIRS OF JUSTICES AND JUDGES WHO DIE IN ACTUAL SERVICE.

A.M. No. 02-12-01-SC. November 24, 2004

Ponente: GARCIA, J.

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GARCIA, J.:

This administrative matter stemmed from the receipt by the Honorable Chief Justice of two (2) letters from Undersecretary Mario L. Relampagos of the Department of Budget and Management (DBM), advising the Court of DBM's action to disallow the 5-year lump sum gratuity separately claimed by the heirs of the late Judge Melvyn U. Calvin and Judge Emmanuel R. Real under this Court's Resolution dated 30 September 2003 in A.M. No. 02-12-01-SC[1], which Resolution reads, *inter alia*, as follows:

“NOW, THEREFORE, by virtue of and pursuant to its mandates of fiscal autonomy under Section 3 and of administrative supervision over all courts and personnel thereof under Section 6 of Article VIII of the Constitution, the Court RESOLVED, as it hereby RESOLVES, to grant lump sum Permanent Physical Disability benefits provided for in Sections 2 and 3 of Republic Act No. 910, as amended, to the heirs of Justices and Judges, including judiciary officials who have the rank, salary and privileges of such Justices and Judges, who die while in the service regardless of the cause of death, except suicide or when the Justice or Judge himself is the proximate cause of the attack or assault which resulted in or caused his death, subject to the following conditions: xxx”.

The material facts relative to the case of the late Judge Melvyn U. Calvin, may be briefly stated, as follows:

Judge Calvin was the Presiding Judge of the Municipal Circuit Trial Court in Bangui, Ilocos Norte when he died on 16 November 2003 due to cardio-respiratory arrest. At the time of his death, the Judge had rendered a total government service of twenty-one (21) years, two (2) months and one (1) day, of which sixteen (16) years, three (3) months and six (6) days were spent in the Judiciary.

After his death, or more specifically on 12 February 2004, his widow, Dr. Susana B. Calvin, addressed a letter to the Honorable Presbitero J. Velasco, Jr., Court Administrator, requesting entitlement to the benefits of Rep. Act No. 910, in conjunction with this Court's Resolution of 30 September 2003, in A. M. No. 02-12-01-SC.[2]

On March 17, 2004, the application was approved by this Court through a Resolution in A.M. No. 11445-Ret.[3]

Thereafter, the Fiscal Management and Budget Office (FMBO) of this Court sent DBM Secretary Emilia T. Boncodin a request for the issuance of a Special Allotment Release Order (SARO) to cover the payment of the terminal leave and retirement gratuity benefits of Supreme Court and lower court officials and employees, including those pertaining to the late Judge Calvin.

Responding thereto, the DBM, through Undersecretary Mario L. Relampagos, addressed a letter bearing date 15 July 2004 to the Chief Justice, therein stating –

“3. The amount of P2,611.50 pertaining to the additional 5 years lump-sum [gratuity of the late Judge Melvyn U. Calvan] per [SC] A.M. No. 02-12-01-SC is disallowed pursuant to Section 2 of R.A. 910 as amended which treats ‘death while in actual service’ and ‘retirement due to permanent physical disability’ as distinct and separate circumstances.”[4]

As regards the late Judge Emmanuel R. Real, the background facts may be briefly stated, as follows:

Judge Emmanuel R. Real was the Presiding Judge of the Regional Trial at Ligao, Albay, Branch II, when he died on 25 February 2002 of cardiac arrest and multiple organ failure or the complications due to multiple myeloma. At the time of his death, the Judge had rendered a total government service of thirty-two (32) years, seven (7) months and twenty-three (23) days, with ten (10) years and twenty-eight (28) days thereof in the Judiciary.

On 11 March 2002, the Judge’s widow, Mrs. Elena N. Real and their four (4) children filed a claim for permanent total disability retirement benefits. The application was denied by this Court through a Resolution dated 3 June 2002 in A.M. No. 10821-Ret.[5] The denial was based on the failure of the late judge to submit the application for permanent total disability retirement benefits during his incumbency for the purpose of medical evaluation. In the same Resolution, however, the Court treated and approved the application as a “claim for Retirement/Gratuity Benefits under Sec. 2 of R.A. 910, as amended, effective February 25, 2002 (death), subject to the availability of funds and the usual clearance requirements”.

Mrs. Real then sought a reconsideration of the 03 June 2002 Resolution and claimed entitlement under this Court’s Resolution of 30 September 2003 in A.M. No. 02-12-01-SC. In a Resolution dated 22 March 2004, this Court approved the claim and accordingly ordered the payment to Judge Real’s heirs of “the additional gratuity benefits of 5-year lump sum to complete the 10-year lump sum gratuity they are entitled under said resolution”.

Conformably therewith, the FMBO then sent DBM a request for the release of funds to cover the additional 5-year lump sum benefits due the heirs of the late Judge.

Unfortunately, as in the earlier case of Judge Calvan, the DBM, through Undersecretary Relampagos, virtually denied the request in his letter dated 19 July 2004 to the Chief Justice,[6] the pertinent portions of which read:

“It is represented that Judge Real died while in actual service. Based on Administrative Matter (A.M.) No. 02-12-01-SC dated 13 (sic) September 2003, the Supreme Court granted an additional five-year lump sum (or a total of ten-year lump sum) to the heirs of Justices and Judges who, after having attained the prescribed length of service for retirement, dies while in actual service.

However, Section 2 of Republic Act (R.A.) No. 910, as amended, clearly provides that if a Judge or Justice dies while in actual service, his or her heirs shall only be entitled to a five-year lump sum gratuity, regardless of whether or not they attained the prescribed length of service for retirement. Only those who retire due to permanent disability are entitled to receive a ten-year lump gratuity if they attained the prescribed length of service for retirement (Section 3 of R.A. 910, as amended).

We therefore humbly opine that R.A. 910 treats ‘death while in actual service’ and ‘retirement due to permanent physical disability’ as distinct and separate circumstances. In treating these two circumstances as one and the same, and extending the benefits due to one to the other, A.M. No. 01-12-01-SC may have expanded the clear intent of R.A. 910.

In view of the foregoing, and our mandate to ensure that disbursements are made in accordance with law, we are thus constrained to deny your request.” (Emphasis supplied).

As we see it, the lone question which commends itself for our resolution is: Was there basis for the DBM to disallow FMBO’s request for the release of funds in order to cover the additional 5-year lump sum benefits of the

late two (2) judges who both unquestionably died while in actual service.

We rule and so hold that there is none.

Under our Constitution, each of the three (3) great branches of government exercises specific powers. As far back as 1922, in *United States vs. Ang Tang Ho*,^[7] this Court had made it abundantly clear that –

“[i]t is the duty of the Legislature to make the law; of the Executive to execute the law; and of the Judiciary to construe the law. The Legislature has no authority to execute or construe the law, the Executive has no authority to make or construe the law, and the Judiciary has no power to make or execute the law. Subject to the Constitution only, the power of each branch is supreme within its own jurisdiction, and it is for the Judiciary only to say when any Act of the Legislature is or is not constitutional”.

Being the highest court of the land and in the entire judicial hierarchy, this Court’s construction of a law is final. No other government agency, much more the other two (2) branches, may exercise the constitutionally mandated function of this Court to interpret and construe the law.

In *Re: Retirement Benefits of the late City Judge Alejandro Galang, Jr.*,^[8] this Court has had the occasion to construe Republic Act No. 910, particularly the phrase “permanent physical disability” found in Section 2 thereof. There, this Court considered death “while in actual service” to be encompassed by the phrase “permanent physical disability”. For, as aptly pointed out by then Associate Justice Claudio Teehankee in his concurring opinion in that case, “there is no more permanent or total physical disability than death”.

Where the law has gaps which tend to get in the way of achieving its purpose, thus resulting in an injustice, this Court is allowed to fill the open spaces therein. So it is that in *Floresca vs. Philex Mining Corporation*,^[9] we stated –

“...even the legislator himself, through Article 9 of the New Civil Code, recognizes that in certain instances, the court, in the language of Justice Holmes, ‘do and must legislate’ to fill in the gaps in the law; because the mind of the legislator, like all human beings, is finite and therefore cannot envisage all possible cases to which the law may apply. Nor has the human mind the infinite capacity to anticipate all situations”.

We take it as beyond any penumbra of doubt that this Court may construe a law by issuing resolutions and/or guidelines in applying it. And this is done not really to enlarge or restrict the law but to delineate what it requires, including prudence and circumspection in its enforcement,^[10] or to assist a government agency in its implementation.^[11]

Under Republic Act No. 910, a situation whereby a Justice or Judge dies while in actual service but without having attained the twenty-year length of service requirement is not expressly provided for. There is thus a gap in that law, which gap prompted this Court to issue the Resolution dated 30 September 2003 in A.M. No. 02-12-01-SC.

It bears stressing herein that once this Court has interpreted a law, such interpretation becomes a part of the law itself. As we said in *People vs. Jabinal*:^[12]

“[d]ecisions of this Court, although in themselves not laws, are nevertheless evidence of what the laws mean, and this the reason why under Article 8 of the New Civil Code, ‘judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system x x x.’ The interpretation upon a law by this Court constitutes, in a way, a part of the law as of the date the law was originally passed, since this Court’s construction merely establishes the contemporaneous legislative intent that the law thus construed intends to effectuate”.

And as an interpretation of Republic Act No. 910, the Resolution dated 30 September 2003 in A.M. No.

02-12-01-SC promulgated by this Court pursuant to its mandates of fiscal autonomy under Section 3 and of administrative supervision over all courts and personnel thereof under Section 6, Article VIII of the Constitution, became part of said statute. As such, the DBM is duty-bound to honor and execute the same.

We take this occasion to remind DBM that it is an agency under the executive branch of government. Hence, it is mandated to ensure that all laws, not the least of which is this Court's Resolution dated 30 September 2003 in A.M. 02-12-01-SC, are faithfully executed.

In his letter of 19 July 2004 to the Chief Justice,[13] Undersecretary Relampagos speaks of DBM's "mandate to ensure that disbursements are made in accordance with law". It must be emphasized, however, that such a mandate does not include reviewing an issuance of this Court and substituting the same with DBM's own interpretation of the law. Anything of that sort is nothing less than a blatant usurpation of an exclusively judicial function and a clear disregard of the boundary lines delineated by the Constitution.

We note that this is not the first time DBM has demonstrated its uncomplimentary regard for issuances of this Court. In the Resolution of August 3, 2004 in A.M. No. 11238-Ret,[14] this Court has once cautioned DBM, thus:

"The DBM should be reminded of its responsibilities to respect the law and to act within the limits of its authority. The Administrative Code of 1987 clothes it with the responsibility of seeing to the 'efficient and sound utilization of government funds and revenues to effectively achieve our country's development objectives.' That responsibility does not include the review of issuances of the judicial branch of government which it is only duty-bound to respect, record, and implement. It should realize that the DBM has no power of judicial review, as it should be well aware that '[t]he power expressly vested in any branch of the Government shall not be exercised by, nor delegated to, any other branch of the Government, except to the extent authorized by the Constitution.'

Indeed, the DBM has the 'responsibility to ensure that disbursements are made in accordance with law.' However, in the exercise of such responsibility, it should always be aware of the parameters of its statutory functions. If it perceives a misapplication of budgetary laws, it behooves the DBM, as the guardian of the government's budget, to call the attention of the Court thereto before implementing its own interpretation of an issuance of the Court; otherwise, it would perilously tread on power and authority constitutionally assigned to the Judiciary."

It is truly unfortunate that the admonition of this Court has apparently fallen on deaf ears.

FOR ALL THE FOREGOING, the Court RESOLVES to DIRECT the Department of Budget and Management (DBM) to: (a) release the amounts corresponding to the permanent total disability benefits to the heirs of the late Judges Melvyn U. Calvan and Emmanuel R. Real within ten (10) days from notice of the requests for SARO and NCA of the FMBO of this Court, and (b) implement the Resolution dated September 30, 2003 in A.M. No. 02-12-01-SC in all cases of death of Justices and Judges while in actual service.

SO ORDERED.

Puno, (Acting C.J.), Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, and Chico-Nazario, JJ., concur.

Davide, Jr., C.J., on official leave.

Corona, J., on leave.

[1] Rollo, pp. 89-93.

[2] Supra.

[3] Application for retirement/gratuity benefits under R.A. 1910, as amended by R.A. 5090 and P.D. 1438, of Dr. Susana B. Calvin, surviving spouse of the late Hon. Melvyn U. Calvin [former Judge, Municipal Circuit Trial Court, Bangui, Ilocos Norte].

[4] Rollo, pp. 108, et seq.

[5] Application for Disability Retirement under R.A. 910, as amended, filed by Mrs. Elena N. Real, surviving spouse of the late Judge Emmanuel R. Real, Regional Trial Court, Ligao City, Albay, Branch II.

[6] Rollo, pp. 116 et seq.

[7] 43 Phil. 1, 6 [1922].

[8] 194 Phil. 14 [1981].

[9] 220 Phil. 533, 559 [1985].

[10] People vs. Ferrer, 150-C Phil. 551, 581 [1972].

[11] Ang Bagong Bayani-OFW Labor Party vs. COMELEC, 412 Phil. 308, 341 [2001].

[12] 154 Phil. 565 [1974].

[13] Rollo, p. 116.

[14] Re: Expiration of the Fixed Term of Office of Atty. Saaduddin A. Alauya, Office of the Jurisconsult, Zamboanga City, p. 13.

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